

No. 2 of 2008. 13

The Antigua and Barbuda Sales Tax (Amendment) Act, 2008.

- (a) consist of the handling, pilotage, salvage, or towage of a ship or aircraft engaged in international transport; or
- (b) are provided directly in connection with the operation or management of a ship or aircraft engaged in international transport.”

(4) Paragraph (3) of Schedule 2 to the Principal Act is repealed and substituted with the following paragraphs—

“(3) Without limiting paragraph (2), a supply of services is not zero-rated under item 9, 11, or 12 of paragraph (1) if—

- (a) the services are supplied under an agreement that is entered into, whether directly or indirectly, with a person who is a non-resident;
- (b) the performance of the services is, or it is reasonably foreseeable at the time the agreement is entered into that the performance of the services will be, received in Antigua and Barbuda by another person, and
- (c) it is reasonably foreseeable, at the time the agreement is entered into, that the other person will not be a taxable person when it receives the performance of the services.

(4) For the avoidance of doubt, if paragraph (3) applies to a supply of a right or option to receive goods or services, paragraph (3)(b) is to be read as referring to the receipt of the goods or services supplied when the right or option is exercised.”

18. Amendment of Schedule 3

(1) Paragraph (1) of Schedule 3 to the Principal Act is repealed and substituted with the following paragraph:

“(1) In this Schedule—

- (a) the classification and description of goods which bear heading numbers designated in the Customs Tariff are to be interpreted in accordance with the rules for interpretation set out in Part I of the Customs Tariff; and
- (b) unless the context requires otherwise—

“new residential premises” means residential premises that—

- (a) have not previously been sold as residential premises or been the subject of a long-term lease; or

*The Antigua and Barbuda Sales Tax
(Amendment) Act, 2008.*

14 No. 2 of 2008.

- (b) have replaced demolished premises on the same land;

but does not include premises that have been occupied by any person for a period of more than five years since their construction;

“use for an approved purpose” means:

- (a) use for an approved charitable purpose; or
- (b) use for an approved residential purpose;

“use for an approved charitable purpose” means use by an approved non-profit body otherwise than in the course or furtherance of a taxable activity, or part of such activity, that is carried on for a profit; “use for an approved residential purpose” means use as—

- (a) a home or other institution providing residential accommodation for children;
- (b) a home or other institution providing residential accommodation with personal care for persons in need of personal care by reason of old age, disablement, past or present dependence on alcohol or drugs, or past or present mental disorder;
- (c) a hospice;
- (d) residential accommodation for students or school pupils;
- (e) residential accommodation for members of the Royal Police Force of Antigua and Barbuda or the Defence Force of Antigua and Barbuda;
- (f) a monastery, nunnery, or similar establishment; or
- (g) an institution which is the sole or main residence of at least 90 per cent of its residents

but does not include use as a hospital, a prison or similar institution, or a hotel or holiday accommodation.”

(2) Paragraph (2) of Schedule 3 to the Principal Act is amended by inserting, immediately after item 5, the following items:

“6. A sale of real property to the extent that the property is—

- (a) new residential premises; or
- (b) premises intended for use solely for an approved purpose and that have not previously been sold for that purpose.

No. 2 of 2008. 15

*The Antigua and Barbuda Sales Tax
(Amendment) Act, 2008.*

7. A supply of any services to the extent that the services consist of, or are closely related to, the construction of—

- (a) new residential premises; or
- (b) premises intended for use solely for an approved purpose;

8. A supply of materials, builders' hardware, sanitary ware, or other articles of a kind ordinarily installed by builders as fixtures, where the supply is made in the course of supplying services covered by item 7 and—

- (a) both the services and goods are supplied by the same supplier to the same recipient; and
- (b) the supplier uses or installs the goods in the course of supplying the services.

9. A supply to a person who is not registered for ABST of a personal or laptop computer, as defined under the Customs Tariff Headings listed below, the value of which is less than the amount specified in the Regulations:

- 8471.30 Portable digital automatic data processing machines, weighing not more than 10kg, consisting of at least a central processing unit, a keyboard and a display.
- 8471.41 Other digital automatic data processing machines: Comprising in the same housing at least a central processing unit and an input and output unit, whether or not combined.
- 8471.49 Other, presented in the form of systems.

10. A supply, to a person who is not registered for ABST, of equipment of a kind specified in the Regulations, if the equipment is supplied together with an eligible personal or laptop computer that is zero-rated under item 9.

11. A supply, to a person who is not registered for ABST, of computer software of a kind specified in the Regulations, if the software is supplied together with an eligible personal or laptop computer that is zero-rated under item 9 to the schedule, including software that is pre-loaded on the computer or supplied separately by any means.

12. A supply of any services to the extent that the services consist of the installation of a solar water heater.

13. A supply of materials, where the supply is made in the course of supplying services covered by item 12 and—

*The Antigua and Barbuda Sales Tax
(Amendment) Act, 2008.*

16 No. 2 of 2008.

- (a) both the services and goods are supplied by the same supplier to the same recipient; and
- (b) the supplier uses or installs the goods in the course of supplying the services.

14. Imports by individuals under the Dollar Barrel Initiative during the period legislated in each calendar year subject to the conditions laid down in the annual legislative amendments to the Customs Duties Act and the Customs Service Tax Act.”

15. Supplies or imports of goods or supplies of services made to a company registered under the International Business Corporations Act Cap. 222.”

(3) Items 8, 12, 13 and 15, as enacted by subsection (2), have effect only from the date on which this Act is published in the Gazette.

(4) Schedule 3 to the Principal Act is amended by inserting, at the end of the Schedule, the following paragraphs:

“(4) A sale of real property is not zero-rated under item 7(a) of paragraph (2) unless—

- (a) the recipient has an unrestricted right to reside in the premises throughout the year;
- (b) the recipient intends to occupy the premises as the person’s main residence and has given the supplier a certificate to that effect in the form specified by the Commissioner; and
- (c) nothing in the contract of sale, the terms of a covenant or caveat, the Development Control Authority consent or similar permission, or the zoning of the land would prevent the person residing in the premises throughout the year as a principal place of residence.

(5) A sale of real property is not zero-rated under item 7(b) of paragraph (2) unless the recipient of the supply intends to use the premises for the approved purpose and has given the supplier a certificate to that effect in the form specified by the Commissioner.

(6) For the avoidance of doubt, a supply is zero-rated under item 6, 7, or 8 of paragraph (2) only to the extent that it is, or relates to, new residential premises or premises to be used for an approved purpose, and in particular a supply, or part of a supply, is only partly zero-rated if—

- (a) there is more than one building on the land being sold, and only some of the buildings are residential premises or intended for use solely for an approved purpose; or
- (b) part of a building (“the shared part”) is intended to be used both for residential purposes or for an approved purpose and for some other purpose.

(7) Where a supply is only partly zero-rated under item 6, 7, or 8 of paragraph (2), the extent to

No. 2 of 2008. 17

*The Antigua and Barbuda Sales Tax
(Amendment) Act, 2008.*

which the supply is zero-rated must be determined on a fair and reasonable basis, so as to reflect the true extent to which the premises will be used for residential purposes or for an approved purpose.

(8) For the purposes of items 7 and 8 in paragraph (2), services consisting of or closely related to construction do not include the services provided by a Barrister-at-law, Solicitor, Architect, Land Surveyor, Quantity Surveyor, Civil Engineer, Electrical Engineer, Mechanical Engineer, or Structural Engineer.

(9) The reference in item 7 of paragraph (2) to the construction of premises does not include a reference to—

- (a) the conversion, reconstruction, alteration, or enlargement of existing premises; or
- (b) the construction of an extension or annexation to existing premises if
 - (i) internal access is provided to the existing building from the extension or annexe; or
 - (ii) the separate use, letting, or disposal of the extension or annexe is prevented by the terms of any covenant, caveat, zoning, or Development Control Authority consent or similar permission.

(10) The following types of goods are not zero-rated under item 8 of paragraph (2):

- (a) finished or prefabricated furniture, other than furniture designed to be fitted in kitchens;
- (b) materials for the construction of fitted furniture, other than kitchen furniture;
- (c) domestic electrical or gas appliances, other than those designed to provide space heating or water heating or both; or
- (d) carpets or carpeting material.

(11) Domestic supplies under item 15 are only zero rated where the supplier is in possession of a purchase order or similar document certified prior to the supply by the ABST division of the Inland Revenue.”

19. Amendment of Schedule 4

(1) Paragraph (1) of Schedule 4 to the Principal Act is amended

- (a) in item 2, by repealing the phrase “unless the supply is made to a registered person” and substituting “or if the goods are a passenger vehicle on which the person incurred input tax and was denied a credit under section 28(2)(b)”

*The Antigua and Barbuda Sales Tax
(Amendment) Act, 2008.*

18 No. 2 of 2008.

(b) by inserting the following new item 6 after item 5 and renumbering items the other items accordingly;

“6. The following supplies relating to land in Barbuda:

- (a) a grant of an exclusive right of occupation of land in accordance with section 7(a) of the Barbuda Land Act 2007; or
- (b) a grant or renewal of a lease under section 8(1) or (2) of the Barbuda Land Act 2007, to the extent that it relates to a right covered by section 7(a) of that Act.”
- (c) in paragraph 20(a) (formerly paragraph 19(a)), by adding the word “seeds” before the word “seedlings” at the beginning of that paragraph;
- (d) by replacing items 23 to 28 (formerly items 22 to 27) with the following:

“23. A supply of local entertainment services.

24. A supply of a ticket in a lottery conducted by the Leeward Islands Lottery Holding Company, or any other approved lottery operator.”

(2) Paragraph (2) of Schedule 4 to the Principal Act is amended by replacing the phrase “6 or 7” with “7 or 8”.

(3) Schedule 4 to the Principal Act is amended by repealing item 28, which appears at the end of the Schedule after paragraph (3).

20. Amendment of Schedule 5

(1) Schedule 5 to the Principal Act is amended in item 2(a) of paragraph (1) by repealing the phrase “10 or 11(a)” and substituting the phrase “11 or 12(a)”.

(2) Schedule 5 to the Principal Act is amended in item 15 by repealing the phrase “22, 23 or 24 of Schedule 4” and substituting the phrase “9, 10 or 11 of Schedule 3” and by repealing the word

“exempt” and substituting the word “zero-rated.”

No. 2 of 2008. 19

*The Antigua and Barbuda Sales Tax
(Amendment) Act, 2008.*

Passed by the House of Representatives on
this 7th day of July, 2008.

Passed by the Senate on this 21st day of
August, 2008.

D. Gisele Isaac-Arrindell,
Speaker.

Hazlyn M. Francis,
President.

L. Thomas,
Acting Clerk to the House of Representatives.

L. Thomas,
Acting Clerk to the Senate.